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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JEREMY PETERSON,

Defendant and Appellant.

B205746

(Los Angeles County
Super. Ct. No. BA298657)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Judith L. Champagne, Judge. Affirmed as modified.

William J. Capriola, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Victoria B. Wilson and Noah P. Hill, for Plaintiff and Respondent.

Jeremy Peterson appeals from the judgment entered after a jury convicted him of gross vehicular manslaughter and causing a death while evading a pursuing police officer. We agree, as does the Attorney General, with his contention that his sentence for evading a police officer should have been stayed because it arose from the same course of conduct as his manslaughter conviction. At Peterson's request, we have reviewed the record from his motion to discover complaints from the employee records of some of the police officers involved in his arrest, and conclude the trial court did not abuse its discretion in denying discovery of certain complaints against the officers. We therefore modify the judgment to stay the sentence on the evading a police officer count, and affirm the judgment as modified.

FACTS AND PROCEDURAL HISTORY

At around 4:00 a.m. on February 23, 2006, Jeremy Peterson drove his pick-up truck through a red light at 60 miles per hour, killing taxi driver Asatur Tokatlyan when Peterson collided with Tokatlyan's cab. A few minutes earlier, the police had stopped Peterson and blocked the front of his truck after responding to complaints that a drunken man was harassing two women who were waiting for a cab near Third Street and LaBrea Avenue. Instead of getting out of his truck as the police had ordered, Peterson backed up and drove off, with the police in pursuit. The collision occurred shortly after at the intersection of Fairfax and Santa Monica Boulevard. The police found an empty half-pint bottle of tequila in the cab of Peterson's truck. Blood test showed that Peterson's blood alcohol level was between .02 and .03 percent, and also showed he had taken cocaine, marijuana, and PCP. Two months earlier, in December 2005, Peterson had been arrested for driving under the influence, and blood tests showed he had taken marijuana, methamphetamine, and PCP. He also had .02 grams of methamphetamine in his possession.

A jury convicted Peterson of gross vehicular manslaughter while intoxicated (Pen. Code, § 191.5, subd. (a),¹ and causing death while evading a police officer (Veh. Code, § 2800.3, subd. (b)). He was also tried at the same time in connection with the December 2005 arrest, and was convicted of driving under the influence, drug possession, and being a habitual traffic offender. The court imposed a 10-year sentence for evading a police officer, and a consecutive term of 15 years to life for the manslaughter count.²

Peterson contends the court should have stayed the 10-year sentence for evading a police officer under section 654 because it arose from the same course of conduct as the manslaughter count. He also asks us to review the transcript from his *Pitchess*³ motion to determine whether the trial court properly exercised its discretion to deny discovery of certain complaints against the arresting or interrogating officers.

DISCUSSION

1. *The Sentence For Evading a Police Officer Must Be Stayed*

Section 654 prohibits multiple punishment arising from multiple statutory violations produced by the same act or omission. (*People v. Harrison* (1989) 48 Cal.3d 321, 335.) The trial court imposed consecutive sentences for the vehicular manslaughter and death caused by evading a police officer counts, despite Peterson's contention that the sentence for the latter had to be stayed under section 654. Peterson contends and respondent concedes that the trial court erred by not staying that sentence. (See *People v. Sanchez* (2001) 24 Cal.4th 983, 992 [punishment for both murder and gross vehicular manslaughter arising from same incident barred by section 654], disapproved on another ground by *People v. Reed* (2006) 38 Cal.4th 1224, 1228; *People v. Sewell* (2000) 80 Cal.App.4th 690, 697 [noting that when defendant was convicted of both murder and

¹ All further undesignated section references are to the Penal Code.

² We do not set forth other portions of the sentence because they are not relevant.

³ *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

causing death while evading a police officer arising from same incident, the trial court properly applied section 654 to stay the sentence on the evading count], disapproved on another ground by *People v. Howard* (2005) 34 Cal.4th 1129, 1139, fn. 5.) As a result, we will modify the judgment to state that the sentence imposed for violating Vehicle Code section 2800.3 is stayed pursuant to section 654.

2. *The Trial Court's Pitchess Determinations Were Proper*

Pursuant to *Pitchess*, *supra*, 11 Cal.3d 531, as codified in Evidence Code sections 1043 through 1047, Peterson moved to discover complaints in the personnel files of some of the police officers involved in his arrest. The trial court granted that motion as to complaints against the officers that involved false reports, false arrests, and perjury.⁴ It then reviewed the personnel files in camera, finding that various documents were relevant to the *Pitchess* motion, while others were not. Peterson asks that we independently review the sealed transcript of the trial court's *Pitchess* document review and determine whether the trial court disclosed all relevant complaints. We do so under the abuse of discretion standard. (*People v. Mooc* (2001) 26 Cal.4th 1216, 1228-1232.)

The trial court adequately described the various documents it considered and we hold that it did not abuse its discretion when selecting or rejecting documents for discovery by Peterson.

DISPOSITION

For the reasons set forth above, we modify the judgment to stay the 10-year sentence that was imposed for causing a death while evading a police officer. (Veh. Code, § 2800.3.) The clerk of the superior court is directed to modify the abstract of judgment to reflect this change and then send a corrected copy of the abstract to the

⁴ The *Pitchess* motion is not in the record, but neither party has raised its absence as an issue on appeal.

Department of Corrections. In all other respects, the judgment, as modified, is affirmed.

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RUBIN, ACTING P. J.

WE CONCUR:

FLIER, J.

BENDIX, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.